

REAL ID Act Quarterly Report to the Legislature

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Preface

Pursuant to legislative request, the REAL ID Legislative Report to the Legislature is being submitted for the period of January 1, 2010, to March 31, 2010. This report is consistent with the REAL ID Quarterly Reports previously required by language contained within the Supplemental Report of the 2007 Budget Act.

In response to terrorist attacks in the United States (U.S.), the REAL ID Act was implemented by the federal government to address public safety and security concerns. Signed into law on May 11, 2005, the federal strategy has been to leverage state-issued driver licenses and identification (DL/IDs) cards as the primary identification tool to control domestic air travel and access to federal facilities.

Ongoing issues remain as to the impact for California's 26 million DL/ID cardholders if California does not totally comply with the REAL ID Act. California citizens would not be able to enter federal facilities, board federally-regulated commercial aircraft or enter nuclear power plants with a DL/ID from California if it is not in compliance.

Accordingly, California DMV has implemented best business practices consistent with certain provisions of the REAL ID Act. Mainly, these efforts have been directed toward requirements and focus on organization, privacy and security, governance, and infrastructure. However, California DMV's primary objective remains the same; to issue Driver Licenses and Identification Cards in the most secure manner; and ensure that personal identity information is protected.

California Activities and Approach

California has positioned itself as one of the primary states to influence the review the REAL ID Act and to address concerns related to federal funding; development of electronic verification systems; and the lack of privacy protection of personally identifiable information.

California will continue discussions with the Department of Homeland Security (DHS), other states, and industry representatives, including the National Governors Association and National Conference of State Legislatures, to resolve REAL ID-related issues. In an effort to achieve a common level of program readiness, California has continued to advocate the need for all states to implement uniform licensing and identification standards.

California has implemented best business practices that comply with certain provisions of the REAL ID Act and also complies with the majority of REAL ID requirements. Although DHS removed the December 31, 2009, deadline for “material compliance”, the May 10, 2011, deadline for “full compliance” is still in effect.

California has not advocated full compliance with REAL ID due to the ongoing issues of funding, privacy and security and electronic verification systems. To achieve full compliance, new procedures would have to be adopted related to the issuance of driver licenses and identification cards and legislative approval would be needed to comply with certain federal requirements.

California DMV will continue to evaluate the REAL ID Act and implement best business practices to provide Californians with a federally-accepted DL/ID that can be used for business activities and travel. However, California must also be aware of enacted or proposed legislation that will impact the state, as well as to ensure the continued implementation of best practices for the improvement of operational procedures.

California will continue to monitor the Providing Additional States’ Secure Identification Act of 2009 (PASS ID, S.1261). PASS ID was developed by the Department of Homeland Security and the National Governors Association to repeal the REAL ID Act and has many requirements that are similar to the REAL ID. However, although PASS ID was placed on the Senate Legislative Calendar in November, it has not been heard by the Senate or the House of Representatives.

REAL ID Act of 2005:

The REAL ID Act was enacted by Congress in 2005, as Public Law 109-13, and the final regulations were published in the Federal Register on January 29, 2008. To be deemed REAL ID-compliant, California must provide documentation to the Department of Homeland Security (DHS) by May 10, 2011, and certify that it complies with the provisions of the REAL ID Act.

The REAL ID Act is intended to strengthen the security of state-issued driver licenses and identification cards (DL/ID) by implementing minimal creation and issuance standards that must be met by all states. State-issued DL/IDs must comply with the REAL ID Act requirements if the DL/IDs are to be acceptable for “official” federal purposes, including boarding federally-regulated commercial aircraft and entering federal facilities.

Federal Legislative Activity

California DMV monitors and tracks federal legislation related to the REAL ID Act to determine the impact on California residents and whether the legislation will require changes to departmental processes and procedures. To date, no REAL ID-related bill has been passed or enacted during the 111th Congressional Session (January 3, 2009 – January 3, 2011).

Federal legislation is analyzed by congressional staff after introduction; however, bills do not necessarily move through the process of a formal committee review. Pending federal legislation currently includes the possible repeal or amendment of the REAL ID Act.

The following represents the federal legislative activity related to the provisions of the REAL ID Act during the 111th Congressional Session:

PENDING LEGISLATION

S.1261: Akaka (Hawaii)

This legislation (the PASS ID Act) would repeal title II of the REAL ID Act of 2005 and amend title II of the Homeland Security Act of 2002. The bill amends the Homeland Security Act of 2002 to prohibit federal agencies from accepting state-issued driver's licenses and personal identification cards (DL/IDs) unless the DL/IDs issued by the state are materially compliant with the minimum standards of the Act; and does not allow persons to board commercial aircraft due to the failure to present a DL/ID issued pursuant to the Act. Additionally, this bill would specify the minimum requirement and issuance standards for such DL/IDs.

Status

- June 15, 2009, introduced, sponsor introductory remarks on measure.
- June 15, 2009, referred to Committee on Homeland Security and Governmental Affairs.
- July 15, 2009, Committee on Homeland Security and Governmental Affairs; hearings held.
- July 29, 2009, Senate committee/subcommittee actions. Status: Committee on Homeland Security and Governmental Affairs. Ordered to be reported with an amendment in the nature of a substitute favorably.
- November 19, 2009, Committee on Homeland Security and Governmental Affairs; reported by Senator Lieberman with an amendment in the nature of a substitute. Without written report.
- November 19, 2009, Placed on Senate Legislative Calendar under General Orders. Calendar No. 217.
- December 9, 2009, by Senator Lieberman from Committee on Homeland Security and Governmental Affairs filed written report. Report No. 111-104.

H.R.140: Gallegly (California)

This bill would withhold certain specified percentages of (fiscal year) highway funds from a state if it does not comply with certain REAL ID Act requirements in issuing a driver's license or identification card, and for other purposes.

Status

- January 6, 2009, introduced.
- January 6, 2009, referred to House Transportation and Infrastructure for a period to be subsequently determined by the Speaker; for consideration of such provisions as fall within the jurisdiction of the committee concerned.
 - January 6, 2009, referred to Subcommittee on Highways and Transit.
- January 6, 2009, referred to House Oversight and Government Reform for a period to be subsequently determined by the Speaker; for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 2892: Price (North Carolina)

This appropriation bill would provide funding for the Department of Homeland Security for the fiscal year ending September 30, 2010. The bill includes \$50 million for the Driver's License Security Grants Program in accordance with Section 204 of the REAL ID Act of 2005. The funds will be used to help states comply with the REAL ID Program.

Status

- June 16, 2009, introduced in House.
- June 16, 2009, the House Committee on Appropriations reported an original measure.
- June 24, 2009, passed/agreed to in House.
- July 6, 2009, received in Senate; read twice; placed on Senate Legislative Calendar under General Orders. Calendar No. 95.
- July 7, 2009, Senate considering for unanimous consent.
- July 8, 2009, Cloture motion presented in Senate.
- July 9, 2009, Senate considering Cloture motion; Cloture motion withdrawn by unanimous consent.
- July 9, 2009, amended in Senate; passed in Senate; conference with House requested.
- July 13, 2009, message on Senate action sent to the House.
- October 1, 2009, on motion that the House disagree to the Senate amendment, and agree to a conference Agreed to without objection.
- October 13, 2009, Conference report H. Rept. 111-298 filed. (text of conference report: CR H11195-11257)

- October 14, 2009, Rules Committee Resolution H. Res. 829 reported to House. Rule provides for consideration of the conference report to H.R. 2892. Previous question shall be considered as ordered without intervening motions except motion to recommit. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.
- October 15, 2009, Rule H. Res. 829 passed House; on agreeing to the conference report; agreed to by the Yeas and Nays: 307 - 114 (Roll no. 784).
- October 15, 2009, conference papers: message on House action held at the desk in Senate.
- October 20, 2009, conference report considered in Senate. (consideration: CR S10542-10544, S10544-10559); Senate agreed to conference report by Yea-Nay Vote. 79 - 19. Record Vote Number: 323. (consideration: CR S10558)
- October 20, 2009, message on Senate action sent to the House; cleared for White House.
- October 22, 2009, presented to President; signed by President.
- October 28, 2009, became Public Law No: 111-83.

H.R. 3174: Blackburn (Tennessee)

This legislation provides that only certain forms of identification of individuals may be accepted by the Federal Government and financial institutions. The proposed forms are considered acceptable identification for both the Federal Government and financial institutions:

Status

- July 10, 2009, introduced in House.
- July 10, 2009, referred to House Committee on Oversight and Government Reform for a period to be subsequently determined by the Speaker; for consideration of such provisions as fall within the jurisdiction of the committee concerned.
 - July 31, 2009, Referred to Subcommittee on Government Management, Organization, and Procurement.
- July 10, 2009, referred to the Committee on Financial Services for a period to be subsequently determined by the Speaker; for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 3471: Cohen (Tennessee)

This bill repeals title II of the REAL ID Act of 2005, to reinstitute section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004, which provides States additional regulatory flexibility and funding authorization to more rapidly produce tamper and counterfeit-resistant driver licenses, and to protect privacy and civil liberties by providing interested stakeholders on a negotiated rulemaking with guidance to achieve improved 21st century licenses to improve national security.

Status

- July 31, 2009, introduced in House.
- July 10, 2009, referred to House Committee on Oversight and Government Reform for a period to be subsequently determined by the Speaker; for consideration of such provisions as fall within the jurisdiction of the committee concerned.
 - October 23, 2009, referred to Subcommittee on Information Policy, Census, and National Archives.
- July 31, 2009, Referred to House Judiciary
 - September 14, 2009, referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.

California Legislative Activity

PENDING LEGISLATION

S.B.60: Cedillo

This bill would require the Department of Motor Vehicles to issue driver's licenses and identification cards (DL/IDs) that are in compliance with specified requirements of the federal REAL ID Act of 2005 (Public Law 109-13).

Status

- January 20, 2009, introduced.
- January 22, 2009, Senate; read first time.
- January 29, 2009, to Senate Transportation and Housing Committee.
- April 15, 2009, re-referred to Committee on Appropriations.
- April 27, 2009, placed on Committee on Appropriations Suspense File.
- May 28, 2009, from committee; do pass as amended.
- June 1, 2009, read third time; passed; sent to Assembly.
- June 1, 2009, Assembly; read first time.
- June 8, 2009, to Committee on Transportation.
- June 22, 2009, hearing cancelled at request of author.

Federal Funding

The federal government has provided federal funds to states through three grant programs:

- 2008 REAL ID Demonstration Grant Program (RIDGP)
- 2009 Driver License Security Grant Program (2009 DLSGP)
- 2010 Driver License Security Grant Program (2010 DLSGP).

The Federal Emergency Management Agency has provided \$48.6 million to state motor vehicle/driver's license authorities through the 2009 DLSGP and \$48.0 million with the 2010 DLSGP. Whereas the funds for the 2008 RIDGP were competitive, the funds for the 2009 DLSGP and 2010 DLSGP are allocated on a formula basis and dependent on the total number of driver licenses and identification cards issued in each state or territory.

The federal funds may be used to achieve compliance with REAL ID requirements. To date, California has received \$5.0 million in federal funds from the 2008 RIDGP (\$3.2 million) and the 2009 DLSGP (\$1.8 million). Additionally, on February 18, 2010, California submitted a grant proposal to the 2010 DLSGP for \$1.6 million, to be used to purchase a digital imaging system for field offices statewide.